

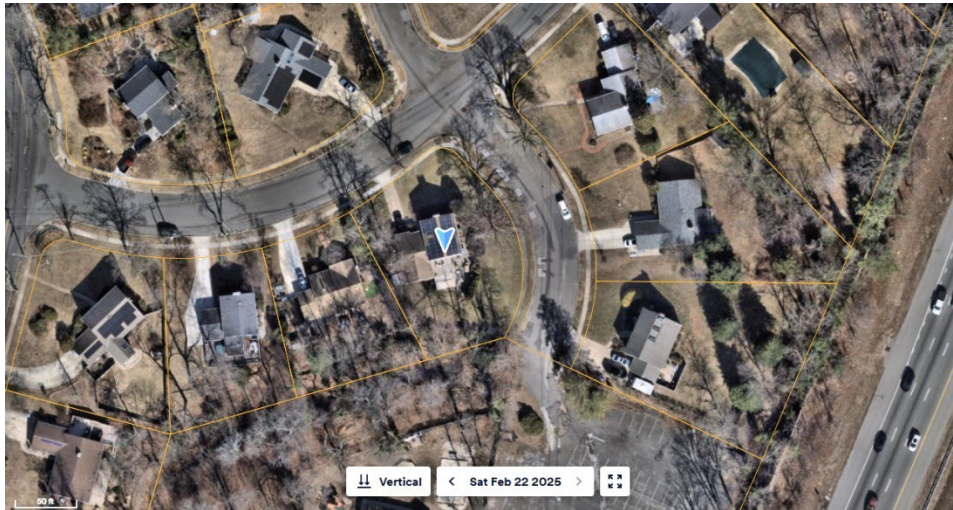


Department of
Community Development

TO: Cherry Hill Township Zoning Board Members
FROM: Kathy Cullen, Director
Jacob Richman, PP, AICP, Deputy Director
Samuel Opal, Assistant Planner
RE: **COMPLETENESS & PLANNING REVIEW**
Carlos & Kelly Bivins
1381 Paddock Way
Cherry Hill, New Jersey 08034
Block: 436.01 Lot(s): 22
Application No. 25-Z-0025
DATE: May 16, 2025

I. GENERAL INFORMATION

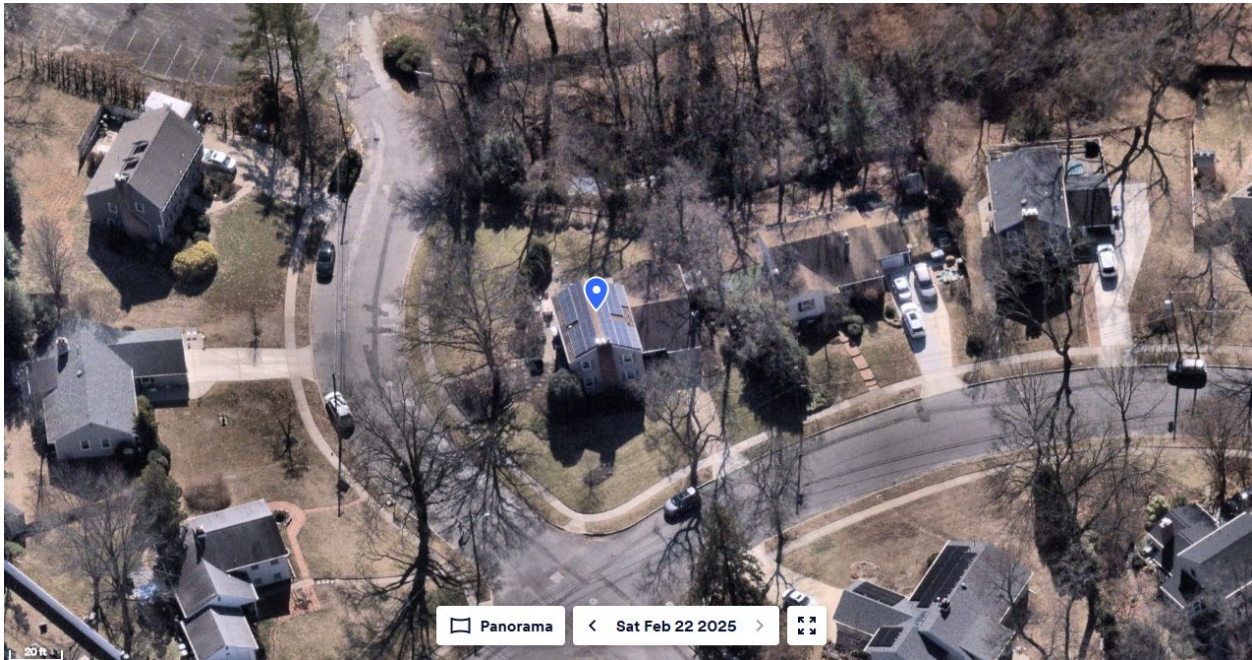
- A. **Applicant & Owner.** Carlos & Kelly Bivins, 1381 Paddock Way, Cherry Hill, NJ 08034.
- B. **Proposal.** Bulk (C) Variance to erect a six (6') foot high vinyl fence enclosure in the secondary front yard where only three (3') feet in height is permitted. The applicant also proposes a conforming 10' x 12' replacement shed in the rear yard and a partial driveway expansion approximately 10' x 18' in size.
- C. **Zone.** Residential (R2).
- D. **Site Area.** The property, containing a two-story residence, is located in the west-central portion of the Township within the Residential (R2) zoned Barclay Farms neighborhood. Specifically, the site is located on the southwest corner of Paddock Way and White Marsh Way. The property is bordered by other single-family residential (R2) zoned properties with the exception of the Institutional (IN) zoned Barclay Farms swim club directly to the south (where White Marsh Road dead ends). The subject site is approximately 0.35 acres in size.
- E. **History.** Tax Assessor records indicate that the home on the subject property was constructed around 1958 with the applicant acquiring the property in 2007. In February of 2016, a zoning permit (ZP-16-00078) was issued to construct a rooftop solar panel energy system. In July of 2023, a zoning permit (ZP-23-00786) was issued for the demolition of a porch in the rear of the dwelling. In March of 2025, a zoning permit (ZP-25-00276) was issued for the removal of a concrete patio and for the installation of a 29' x 18' deck and to construct a 15'-8" x 26'-4" single story addition at the rear of the dwelling.



II. COMPLETENESS REVIEW

A. **Submitted Items.** The following information has been submitted in support for this application and reviewed by the Cherry Hill Township Department of Community Development for conformance to the Zoning Ordinance:

1. Land Survey prepared by Steven R. Kelly, PLS, PP dated June 28, 2024.
2. Annotated Site/Fence Location Plan (with new shed and driveway expansion) prepared by Thomas B. Wanger, RA, dated February 19, 2025.
3. Project Summary
4. Aerial and Site Photographs (annotated).
5. Tax Map – Sheet 187.
6. Land Use Development Application.



B. **Checklist.** Waivers requested and recommended for residual checklist items (items reviewed are the only checklist items applicable to the application):

14. *Photographs of the site showing area in question.* **Using the provided annotated site photographs, the applicant shall provide testimony regarding the existing site conditions and layout of the property and residence, particularly as it relates to the secondary front yard of the property and the existing roadways. Please be sure to discuss the subject site's proximity to the adjacent Barclay Farms swim club.**
15. *Required Approval. List and provide applications and permits of regulatory agencies (NJDOT, NJDEP, CCSC, etc.).* **Waiver requested and the Department does not object to the granting of this waiver as no outside agencies have jurisdiction in this matter.**
16. *Summary. A written description of the proposed use(s) and operation(s) of the building(s), i.e., the number of employee or users of non-residential buildings, the proposed number of shifts to be worked, the maximum number of employees on each shift, expected truck traffic, noise, glare, radiation, heat, odor, safety hazards, air and water pollution.* **The applicant shall provide testimony regarding the location of the proposed 6' tall vinyl fence. The applicant shall testify as to the need of the fence and why they are unable to conform to section 506 of the Zoning Ordinance. While variance relief is not required for the proposed shed and**

driveway expansion, the applicant shall provide corresponding testimony as to the size, setbacks, and location, where applicable. Please confirm that the shed height will be no greater than 12’.

32. *Zoning Schedule showing required, existing, and proposed lot & yard requirements for relevant zone(s) including, area, frontage, depth, setbacks, height, etc.* The applicant shall review the zoning schedule provided in Section III.A below and confirm to the Board the accuracy of the indicated dimensions/setbacks. If there are any corrections needed to the zoning schedule, the applicant shall clarify said dimensions/setbacks to the Board. Specifically, the applicant shall verify that the fence will be setback approximately 6’ from the right-of-way along White Marsh Way.
35. *Building Plans. Proposed structures and uses on the tract, i.e., size, height, location, arrangement, an architect’s scaled elevation of the front, side and rear of any structure to be modified, with building lighting details and attached signs.* Waiver requested and the Department does not object to the granting of this waiver as no additions to the house are proposed, however testimony shall be provided regarding the color & material of the fence and shed.
36. *Floor Plans where multiple dwelling units or more than one use is proposed that have different parking standards.* Waiver requested and the Department does not object to the granting of this waiver as no additions to the house are proposed.
37. *Signs. Existing and proposed signs, including the location, size, height and necessary measurements and a Sign Location Plan.* Waiver requested and the Department does not object to the granting of this waiver as no signage is proposed as part of this application.
47. *Setbacks. All side, rear, and front setback lines with dimensions.* The applicant shall provide testimony confirming that the shed will be setback a compliant 5’ from the side and rear property lines and that the driveway expansion will be at least 3’ from the side property line.

- C. **Determination.** The Department of Community Development has reviewed the aforementioned application and it has been deemed complete. Waivers have been requested and granted for checklist item numbers: 15, 35, 36 and 37.

III. DEPARTMENT OF COMMUNITY DEVELOPMENT COMMENTS

- A. **Zoning Requirements.** Single-Family detached dwellings are a permitted use in the Residential (R2) zone per §405.B.7 of the Zoning Ordinance. Fences, sheds, and driveways are permitted accessory structures per §405.C.4, §405.C.11, and §505 of the Zoning Ordinance, respectively.

CODE SECTION	MINIMUM REQUIREMENTS	REQUIRED (Corner)	EXISTING	PROPOSED	CONFORM
§405.D	Lot Area (square feet)	10,350 SF	15,132 SF	No Change	C
§405.D	Lot Frontage (feet)	90’	103.46	No Change	C
§405.D	Lot Depth	120’	137.51	No Change	C
§405.D	Front Yard (Paddock Way)	30’	39.99’	No Change	C
§405.D	Secondary Front Yard (White Marsh Way)	25’	46.97’	No Change	C
§405.D	Rear Yard	25’	45.93’	No Change	C
§405.D	Side Yard (One Side)	10’	10.9’	No Change	C
§405.D	Aggregate Side Yard	24’	N/A	N/A	N/A

§405.D	Maximum Height	30'	<30'	No Change	C
§405.D	Maximum Bldg. Cover	35% 5,296 SF	15.10% 2,285 SF	15.89% 2,405 SF	C
§405.D	Maximum Lot Cover	40% 6,053 SF	23.16% 3,504 SF	25.44% 3,850 SF	C
§405.D	Open Space	N/A	N/A	N/A	N/A
§431.J.3	Shed Side & Rear Yard Setback	5'	Removing Current Shed	5'	C
§506.A.1.b	Maximum Fence Height in Front/Secondary Front Yard	3'	N/A	6' (Vinyl)	V
§506.A.1.b.i	Minimum Setback For Fence >3' in Height in Front Yard	25' or Front Façade (whichever is furthest)	N/A	6' (from White Marsh Way)	V

^V Variance

^{ENC} Existing Non-Conformity

^C Conforms

B. **Bulk (C) Variances.** It is recommended, although not required, that justification be provided by a licensed New Jersey Professional Planner (P.P.), for the requested variances in accordance with N.J.S.A. §40:55D-70:of Adjustment must be assured that the Applicant has demonstrated either that:

1. From §506.A.1.b.i and ii, to permit a 6' foot tall vinyl fence to be located within the secondary front yard approximately 6' from the White Marsh Way Right-Of-Way, where fences in the secondary front yard shall be no greater than three (3') feet in height and shall be located at the front-most façade of the existing house or a minimum of twenty-five (25') feet from the ROW, whichever is furthest. **In this instance, the principal structure has a setback of 46.97' from the White Marsh Way ROW . As such, the fence would have to be set even with or behind the building façade to be conform.**
2. Any other variances deemed necessary by the Zoning Board of Adjustment.

C. **Design Waivers.** No design waivers are being requested as part of this application.

D. **Comments.**

1. The applicant shall provide testimony regarding the location, height, type, and color of the proposed fence to be installed. Please be sure to specify how far back the fence is proposed from White Marsh Way.
2. The applicant shall indicate what the purpose is for the proposed fencing and what safety and/or privacy issues, if any, are currently present due the lack of fencing. Additionally, the applicant shall ensure that any approved fencing is installed entirely within the property lines.
3. If applicable, the applicant shall provide testimony regarding any conditions related to the shape, topography, shallowness, and/or uniqueness of the parcel in question that make it difficult, or would be a hardship, for the applicant to conform to the fencing requirements enumerated in the Zoning Ordinance. The applicant shall provide testimony regarding the lot dimensions as well as the physical orientation and setbacks of the existing single family dwelling in relation to the property lines and surrounding roadways.
4. The applicant shall provide testimony that no obstructions to the site triangle, as defined in Section 502.M of Zoning Ordinance, will be created as part of this application.

5. The applicant shall provide testimony regarding the proposed new shed and confirm that the existing shed will be eliminated. Please confirm dimensions and setbacks for the proposed shed.
6. The applicant shall provide testimony regarding the proposed driveway expansion and confirm that the driveway will be at least 3' from the side property line.
7. The application may be subject to additional comments by members Zoning Board, the Cherry Hill Department of Community Development, the Township's zoning board consultants, and/or the public.
8. **The burden of proof is on the Applicant to show that the application meets the following standards of review, as set forth in N.J.S.A. 40:55D-70c.**

Positive Criteria

- 1) Hardship Variance. The strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer [owner] of such property, by reason of:
 - a. exceptional narrowness, shallowness or shape of a specific piece of property, or
 - b. exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or
 - c. an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon. **OR**
- 2) Flexible Variance. The purposes of the Municipal Land Use Law would be advanced by a deviation from the zoning ordinance (set forth in N.J.S.A. 40:55D-2) and the benefits of the deviation would substantially outweigh any detriment; **AND**

Negative Criteria

- 1) The variance can be granted without substantial detriment to the public good; **AND**
- 2) It will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

The above information is being provided for informational purposes only. The Department of Community Development cannot provide legal advice to applicants.

9. The statements, opinions, and conclusions contained within this Completeness Review are based upon the information, plans, and other documents provided to the Department as of the date of its issuance. The Department reserves the right to supplement or amend any of the statements, opinions, and/or conclusions contained herein at any time up to, and including, at the time of the hearing of this application.
- E. **Conditions.** Should the Zoning Board consider and grant the requested bulk variances to permit the proposed structure, they may impose reasonable conditions, as they deem necessary, in addition to the following recommended conditions of approval:
1. All taxes and assessments shall be paid on the property for which this application is made. The Applicant shall submit proof that no taxes or assessments for local improvements are due or delinquent on the property for which the application is made.

2. Any and all conditions made a part of any approval, including those noted by reference in this or any other reports of any consultants to the Zoning Board, or as set forth on the record at the Zoning Board hearing, must be satisfied.
3. The Applicant shall pay all required escrows, costs and professional fees associated with the application to the Department of Community Development within fourteen (14) days of receipt of a written request for payment of escrow funds. The failure to pay the required escrow funds within the fourteen (14) day period after receipt of written notice may result in the voiding of this approval. Negative escrow account balances shall incur interest at the rate of 1.5% per month.
4. Any and all outside agency reviews and/or approvals shall be obtained, if applicable.
5. The failure of the Applicant to comply with any of the conditions contained in this Resolution will permit the Zoning Officer to withhold or rescind any zoning permits issued to the Applicant, pursue any other enforcement actions permitted by the Cherry Hill Township Zoning Ordinance, and/or refer the matter back to the Zoning Board where it may, at its sole option, revoke the approval being granted by any Resolution of Approval.

IV. APPROVAL PROCESS

If approved, the following items are required to complete the approval process (notwithstanding any other needed items due to the unique nature of the application):

1. After the Resolution is memorialized, a **Notice of Decision** will be published in the Courier Post by the Department of Community Development.
2. After all comments have been addressed, revise (if needed), and submit **two (2) copies of finalized plans and an electronic copy** for Township records.
3. Payment of any outstanding **Review Escrow**.
4. Complete and submit a **Zoning Permit** for the proposed fence, shed, and driveway expansion. *To learn about how to submit a zoning permit, please visit the following webpage:*
<http://www.chnj.gov/203/Zoning>.

Cc: Carlos & Kelly Bivins (via email)
Thomas B. Wagner, RA (via email)
Allen Zeller, Esq. (via email)
Fred Kuhn (via email)
Sharon Walker (via email)
Kathleen Gaeta (via email)



1381 PADDOCK WAY

BLOCK 436.01 LOT 22

1 inch = 50 feet



Legend

- Parcels selection
- Parcels
- Rail Lines
- Bus Stops
- A
- AE